

Resthaven Memorial Gardens

June 4, 1999

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The Honorable Steven V. Sklar
Director
Maryland Office of Cemetery Oversight
500 North Calvert Street, 3rd Fl.
Baltimore, MD 21202-3651

Dear Mr. Sklar:

I am writing in response to your letter and enclosures to me dated May 26, 1999. You observe that you received a complaint from Mr. Jeffrey M. Irwin of U.A. Lough & Son. Further, you asked that I review this matter and provide you with responses to his concerns. You observe that Mr. Irwin "details various practices of (my) cemetery which he alleges discourage customers from considering purchases from his business in violation of law."

It would be helpful to me to know what laws the complaint suggests my company has violated. I am generally familiar with the law, the Code of Ethics and Standards of Conduct and other regulations to which Resthaven is subject. I do not believe that any law, ethical standard, standard of practice or other regulation to which Resthaven is subject has been violated. In view of my position as a member of the Advisory Committee, I am particularly sensitive to matters of ethics in the cemetery industry in general and, of course, the ethical standards upheld by Resthaven in particular.

Resthaven Memorial Gardens did represent to some prospective customers that certain prices were going up as in fact they did as of April 10, 1999. To the best of my knowledge no Resthaven employee represented that "all of our prices" were going up. Indeed, Resthaven increased the price of some bronze markers as well as some vaults and urns. Indeed, we anticipate further increases during this year associated with increased overhead associated both with the new regulatory scheme and other overhead increases as well. Resthaven increased its installation and maintenance fees effective April 10, 1999 as well. This increase was relatively small in that the average maintenance fee increase of a double-companion marker was approximately \$27.70.

Generally speaking, a monument dealer will call Resthaven to inquire regarding our current installation and maintenance fees. When Mr. Irwin allegedly called, it is conceivable that he may have been given an earlier price despite our recent increases. However, I have not been able to verify this by my investigation. It is difficult to track the complaint of an anonymous person. Mr. Irwin criticizes the way Resthaven installs memorials. This suggests a lack of understanding of how we conduct our

business. In the old tombstone cemeteries, additional land is set aside for an upright tombstone at the head of the grave site. Once this tombstone is installed, it is not moved except as the result of vandalism. In a modern memorial park such as Resthaven, the cemetery uses only flush memorials and places them at the head of the actual grave, thereby conserving land. When a companion marker is placed at the head of the grave when one spouse is buried, the marker must be taken up for the grave to be dug for the second burial and then reinstalled. It then straddles both graves. We install the bronze memorial on top of a four inch thick granite base. Therefore, no concrete "footer" is needed nor is one used on a routine basis as suggested by Mr. Irwin.

Regarding the assertion that Resthaven advised the customer that they would not guarantee the granite if purchased by another, I am sure you would understand and agree that as a standard business practice in the cemetery industry and indeed in other industries, we do not guarantee products sold by another company installed on our property. We do, however, advise customers of our warranty position in our standard disclosure which is attached to this letter. I do not believe an automobile dealer would guarantee parts obtained by the buyer from other sources nor would any reasonable person expect that kind of warranty. At Resthaven, we are confident of the quality of the marker, vase, or granite, that we sell and we stand behind these products.

My employee, Mr. Kip Merritt, has discussed this matter with me. He denies the statement attributed to him by the anonymous person as asserted by Mr. Irwin. Mr. Irwin claims that the anonymous 70 year old person was told by Resthaven employees that he could install a marker pre-need. Mr. Irwin complains that Resthaven told him that it was no longer installing the memorials pre-need when, in fact, we did so. We retain the flexibility, as a small independent company to accommodate a customer regardless where he has purchased a memorial. There is no reasonable basis for Mr. Irwin to complain about our actions accommodating a customer when that customer's circumstances justifies a pre-need installation. There are a variety of circumstances where flexibility is called for including the advanced age of a customer, a terminal illness situation, or some other compelling reason. For those memorials not needing installation far in advance, Resthaven stores them at the manufacturers bonded warehouse or alternatively, they are stored, free of charge, at our storage building. This appears to be a situation where a competitor is complaining because Resthaven has "bent over backwards" to accommodate the needs of a lot owner.

It appears that Mr. Irwin is complaining that we require customers using another company's monuments to sign a disclosure form in order that they know precisely what Resthaven warrants and what it does not warrant. A copy of the disclosure is attached to this letter. Resthaven's policy is to ensure full disclosure as a hallmark of good customer relations. If our full disclosure policy regarding warranties results in the loss of a customer to Mr. Irwin, that result is beyond Resthaven's control. We assume, although we do not know, that Mr. Irwin's company also advises his customers as to what they can expect in the warranty area.

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Finally, Mr. Irwin appears to have filed this complaint after being expressly advised by the anonymous customer that they no longer wished to file a complaint and no longer wished to purchase from Mr. Irwin's company. Mr. Irwin asserts that they felt it was hopeless to complain because "Mr. Cody is on the committee." It should not go unnoticed that U.A. Lough & Son is owned by Merkel Monument Company of Baltimore and, of course, Skip Merkel sits on the Advisory Board of the Office of Cemetery Oversight with me.

If there have been breakdowns in communications between employees of U.A. Lough & Son and Resthaven, we regret any such communication failures. We believe we operate both within the law and the ethical constraints set forth in Maryland Regulations and we trust this response will be satisfactory to you. If there is any need for further information, you need only contact me and we will continue to fully cooperate. I believe Resthaven is a model of how a cemetery should conduct business in Maryland. I am proud of my reputation and that of my company and fully intend to continue to do everything necessary not only to comply with the law and ethical standards but to conduct my business in a manner that will continue to satisfy the many thousands of satisfied customers and consumers we have serviced for many years.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard F. Cody".

Richard F. Cody
President

Attachments

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Resthaven Memorial Gardens

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October 28, 1999

Myra Howard
FTC Staff Attorney
Federal Trade Commission
6th Street & Pennsylvania Ave. N.W., Room H 238
Washington, DC 20580

Re: Funeral Rule Review

Dear Ms. Howard

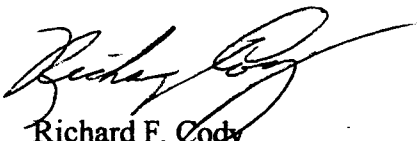
I noticed that in the Monument Builders of North America's Public Comments there was a complaint dated April 23, 1999 by U.A. Lough & Son Monument Company against Resthaven.

Please make my enclosed response to that complaint dated June 4, 1999 part of the public record of the Funeral Rule Review.

After you read my response you will understand why the MBNA did not want to include it in their comments.

If I can be of any assistance, please do not hesitate to contact me.

Very truly yours,



Richard F. Cody
President

RFC/sh